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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,474

10/20/2003

Bruce P. Konen

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,474

Applicant(s)

KONEN, BRUCE P.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-12,14-20 and 22 is/are rejected.
- 7) ☒ Claim(s) 8 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/6/06.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on 02/06/06.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The subject matter which was not described in the specification is "providing increased support over a shaft supported by fewer than three bearings along its length".

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9, 10, 15, 16, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Saltus-Werk (DE 3939816 A1).

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Saltus-Werk discloses (Fig. 1) the invention including a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a worm 13, a worm gear 15, a drive gear 18, a main shaft 16, a torque arm 5 and a segmented gear 23.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 3, 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Pace (4317282).

Saltus-Werk discloses the invention substantially as claimed including a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a worm 13, a worm gear 15, a drive gear 18 and a main shaft 16. Saltus-Werk does not show a torque arm, a torque arm clamp and an attachment element with a hook. However, Pace teaches the use of a torque arm 10, a torque arm clamp 17 and an attachment element comprises a hook (see Fig. 1-2, the part that connects with the handle) for the purpose of better supporting the cutter. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the torque arm, the torque arm clamp and the hook as taught by Pace in order to obtain a better support.

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8. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Pace (4317282) as applied to claim 1 above, and further in view of Rudolf et al. (6155916).

The modified device of Saltus-Werk discloses the invention substantially as claimed except for a stabilizing handle that can be attached to left and right sides. However, Rudolf et al. teach the use of a stabilizing handle 30 that can be attached to left and right sides (see Fig. 1) for the purpose of allowing right and left hand operators to use the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified Saltus-Werk's device by providing the stabilizing handle as taught by Rudolf et al. in order to obtain a device that can be used by right and left hand operators.

9. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Rudolf et al. (6155916).

Saltus-Werk discloses the invention substantially as claimed except for a stabilizing handle that can be attached to left and right sides. However, Rudolf et al. teach the use of a stabilizing handle 30 that can be attached to left and right sides (see Fig. 1) for the purpose of allowing right and left hand operators to use the device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have further modified Saltus-Werk's device by providing the stabilizing handle as taught by Rudolf et al. in order to obtain a device that can be used by right and left hand operators.

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10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Hirabayashi (5642566).

Saltus-Werk discloses the invention substantially as claimed except for a brush. However, Hirabayashi teaches the use of a brush 8 for the purpose of maintaining dust away from the gears. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the brush as taught by Hirabayashi in order to maintain dust away from the gears.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Berlinger (3,973,449).

Saltus-Werk discloses (Fig. 1-25) the invention substantially as claim except for three bearings. However, Berlinger teaches the use of three bearings (30, 42 and 66) for the purpose of minimizing the possibility of the pinion bending out of engagement with the gear. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the three bearings as taught by Berlinger in order to obtain a device that minimizes the possibility of the drive gear bending out of engagement with the gear.

12. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltus-Werk (DE 3939816 A1) in view of Berlinger (3,973,449).

Saltus-Werk discloses (Fig. 1) the invention including a housing 4, first and second cutting blades (2 and 24) and a drive assembly including a drive shaft 11, a worm 13, a worm

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gear 15, a drive gear 18 and a main shaft 16. Saltus-Werk does not show three bearings.

However, Berlinger teaches the use of three bearings (30, 42 and 66) for the purpose of minimizing the possibility of the pinion bending out of engagement with the gear. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Saltus-Werk's cutter by providing the three bearings as taught by Berlinger in order to obtain a device that minimizes the possibility of the drive gear bending out of engagement with the gear.

Allowable Subject Matter

13. Claims 8 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that Saltus-Werk doesn't show a driver gear engageable with one of the cutting blades. However, Saltus-Werk teaches the driver gear 18 engageable with the cutting blade 24 by the gears (20 and 22).

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 571-272-4507. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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4/28/06


BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER